

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CHRISTINA SMITH, individually and as  
next friend of her son, Joshua England,

Plaintiff,

v.

**Case No.: 19-cv-470-G**

JOE ALLBAUGH, CARL BEAR,  
ROBERT BALOGH, WENDELL MILES,  
LAURA HAYS, LAURA NOBLE,  
OKLAHOMA DEPARTMENT OF  
CORRECTIONS OFFICERS JOHN DOES  
#1-10, and CASE MANAGER RICHARD  
ROE,

Defendants.

**JOINT MOTION TO STRIKE  
SCHEDULING ORDER**

For their Joint Motion to Strike Scheduling Order, the parties state the following:

1. On October 20, 2019, the Scheduling Order in this case was entered setting this case on the October 13, 2020 trial docket with deadlines corresponding to that setting. (Doc. 33).
2. There have been no prior requests for extension of the scheduling order deadlines.
3. The requested relief will result in a new trial schedule.
4. On February 24, 2020, the Court denied Defendants' motion to dismiss. (Doc. 42).
5. On February 26, 2020, Defendants filed their motion to quash Plaintiff's Subpoena to the Oklahoma Department of Corrections based, in part, on the assertion that Plaintiff lacked standing (Doc. 43). On June 30, 2020, the Parties filed a joint motion for a Protective Order to allow for the production of certain documents sought in Plaintiffs'

Subpoena to the Oklahoma Department of Corrections. In agreeing to the stipulated protective order, Defendants did not waive their arguments concerning discovery, specifically that this action should be stayed pending the appeal.

6. On March 4, 2020, Defendants Joe Allbaugh and Carl Bear appealed this Court's order denying their qualified immunity based motion to dismiss. (Doc. 46). The appeal is pending.

7. On March 9, 2020, Defendants filed a motion to stay the case (Doc. 50) and a motion to continue their answer deadline (Doc. 51). Plaintiff opposed these motions (Docs. 53 & 59).

8. On May 29, 2020, Plaintiff filed a motion to amend her complaint (Doc. 63). Defendants opposed this motion. (Doc. 66).

9. Due to these pending issues, the parties are unable to meet the deadlines outlined in the current scheduling order.

#### Relief Requested

The parties jointly request that the current scheduling order be stricken. Separately, Plaintiff requests that the Court enter a new scheduling order at this time upon denying Defendants' motion stay the case (Dkt. 50). Defendants request that the Court enter a new scheduling order only after the interlocutory appeal has concluded for the reasons set forth in their motion to stay the case.

Respectfully submitted,

s/ Devan A. Pederson

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of June, 2020, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of the Notice of Electronic Filing to the following ECF registrants:

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s/ Devan A. Pederson  
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